

Example essay questions with suggestions for a good answer

Chapter 3 – Unregistered land

‘Title deeds conveyancing in unregistered land has significant drawbacks: it was described in *Williams & Glyn’s Bank v Boland* (1981) as a “wearisome and intricate task” involving investigation of paper documentation which, as Lord Westbury noted, may be “difficult to read, impossible to understand and disgusting to touch”.’ How far do you agree?

- Begin by explaining what title deeds conveyancing actually is – you will want to draw a distinction with the system of registered land under the LRA 2002.
- You will need to explain the significance of the unregistered/registered land distinction in modern land law – noting the distinct regimes that apply: doctrine of notice/LCA 1972 versus LRA 2002.
- Unpack the drawbacks of unregistered land and explore if and how far they are ‘significant’ as the essay title indicates. Consider:
 - The partial system of registration of ‘commercial interests’ under the LCA 1972 – note the LCA 1972 provides protection but only for those commercial equitable rights that are registrable under s. 2, and not all rights in unregistered land are so registrable;
 - The importance of the LCA 1972 as a system of names-based registration and not title registration and the problems this can cause;
 - *Midland Bank Trust Co Ltd v Green* (1981) as the key case – discuss what this case tells us of the limitations/drawbacks of the unregistered land regime;
 - The enforceability of equitable rights falling outside the limited regime of the LCA 1972 (and overreaching) which ultimately collapse back on the uncertainty, ambiguity, and general ‘fuzziness’ of the doctrine of notice. Reflect on the Tizard authority and the inherently vague and problematic boundary, in particular as to what constitutes and does not constitute constructive notice.
- Bring your discussion back to the essay title, perhaps by reflecting on the dwindling importance of unregistered land and whether the drawbacks are as significant as first thought. How does the LRA 2002 address these limitations?